

REMARKS/ARGUMENTS

This amendment is filed after the notice of appeal filed December 28, 2009, and prior to the appeal brief. Claim 40 was previously withdrawn in response to an election in a restriction requirement and is now canceled without prejudice or disclaimer. Claim 41 has been amended to include the subject matter of claim 53, now canceled. Claims 1, 6, 17-19, 25-28, 31, 33, 35, and 46 have been amended for consistency of terms and no change of scope is intended. If the amendment is entered, claims 1-28, 31-35, and 41-52 will be pending in the appeal. Entry of amendments after filing of the notice of appeal and before the appeal brief may be permitted, as provided for in 37 CFR § 1.116. See 37 CFR § 41.33(a).

Claim Amendments simplify issues for appeal

Claims 41-53 as previously presented were all rejected under 35 USC § 103(a) as unpatentable over Schreeder et al., (U.S. Pat. Pub. No. 2002/0007209), in view of Hossainy et al., (U.S. Pat. No. 6,558,733). Amending independent claim 41 with claim 53, and canceling claim 53, does not change the subject matter rejected by the combination of references chosen, nor the points of disagreement between Applicants and the Examiner, but it does simplify the issues, as applicants will advance one argument for claims 41-52, if the amendment is entered.

Claim Amendments place claims in better form for appeal

Applicants have amended claims 1, 6, 17-19, 25-28, 31, 33, 35, and 46 to consistently use the language first calling out the openings, however they are recited in the respective claims. For example, in claim 1, the holes are first recited as “a first plurality of through openings.” As amended, any further reference to the first openings in claim 1 or its dependents also uses as phrase “the first plurality of through openings.” As examination with the previous language has progressed through several office actions and responses, it is clear to Applicants that the scope of the claims is certainly understood by the examiner, however, the proposed amendment will eliminate the possibility of confusion on appeal over the different recitations of the openings in a claim and its dependents. Importantly, the amendments will not change the substantive issues on appeal, but merely place the claims in better form for consideration on appeal.

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As the proposed amendments do not raise any new issues but simplify the issues on appeal and place the claims in better form for appeal, Applicants request that this amendment be entered.

Should additional fees be necessary in connection with the filing of this paper the Commissioner is hereby authorized to charge Deposit Account No. 10-0750/CMI5007USNP1/KLM for any such fees.

Respectfully submitted,

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